UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/24661
19 October 1992

ORIGINAL: ENGLISH

THE STATUS OF THE IMPLEMENTATION OF THE PLAN FOR THE ONGOING MONITORING AND VERIFICATION OF IRAQ'S COMPLIANCE WITH RELEVANT PARTS OF SECTION C OF SECURITY COUNCIL RESOLUTION 687 (1991)

Introduction

1. The present report is the second submitted pursuant to paragraph 8 of resolution 715 (1991), adopted on 10 October 1991, in which the Security Council requested the Secretary-General to submit a report to the Council every six months on the implementation of the Special Commission's plan for ongoing monitoring and verification of Iraq's compliance with relevant parts of section C of Security Council resolution 687 (1991). It updates the information contained in the first report, circulated as document S/23801 on 10 April 1992.

2. Under the Special Commission's ongoing monitoring and verification plan, contained in document S/22871/Rev.1, Iraq is obliged to provide certain declarations. The first were due by 10 November 1991 concerning (a) initial information on the specific dual-purpose activities, facilities and items outlined in the plan and its annexes; and (b) a report on the legislative and administrative measures taken to implement resolutions 687 (1991) and 707 (1991), other relevant Security Council resolutions and the plan. Iraq is further obliged to update the information on (a) above each 15 January and 15 July, and to report further on (b) when requested to do so by the Commission.

3. The first report concluded that, despite the strenuous efforts of the Special Commission, "it was not possible to begin the practical implementation of the plan ... because of the positions maintained by Iraq since the adoption of" resolution 715 (1991). It further concluded that, "without the clear acknowledgement by Iraq of its obligations under Security Council resolution 715 (1991) and the plans approved thereunder, as well as its agreement to implement unconditionally these obligations, the Special Commission will be neither legally nor practically able to initiate and operate effectively the monitoring and verification plan contained in document S/22871/Rev.1".

4. Since the adoption of resolution 715 (1991) the Security Council, in the light of Iraq's non-compliance, has adopted a number of decisions relating to ongoing monitoring and verification which have further served to define the Council's position and provide guidance to the Special Commission in seeking to carry out its mandate. These decisions, embodied in statements issued by the President of the Council on behalf of its members, include the following:

(a) The finding that full implementation of the Council's resolutions on the situation between Iraq and Kuwait is essential to the restoration of peace and security in the region (S/23500 of 31 January 1992);

(b) The finding that Iraq's failure to acknowledge its obligations under resolutions 707 (1991) and 715 (1991) and to provide the necessary declarations constitutes a continuing material breach of resolution 687 (1991) (S/23609 of 19 February 1992);

(c) The finding that Iraq's unconditional agreement to implement its obligations under resolutions 707 (1991) and 715 (1991) and the plans is an essential precondition to any reconsideration of the lifting of sanctions under paragraphs 21 and 22 of resolution 687 (1991) (S/23609 of 19 February 1992);

(d) The finding that unconditional agreement by Iraq to implement all its obligations under resolutions 707 (1991) and 715 (1991) is necessary for initiation and credible practical implementation of ongoing monitoring and verification (S/23663 of 28 February 1992);

(e) The finding that Iraq had not complied fully and unconditionally with all its obligations, must do so and must immediately take appropriate actions in this regard (S/23709 of 12 March 1992).

These Council decisions recognize the preconditions which are essential for the Special Commission to be able to undertake credible full-scale monitoring activities. They are required as much of Iraq's permitted industry in the chemical, biological and ballistic missile areas is dual capable and, as such, will require monitoring under the plan.

Developments during the period 10 April-10 October 1992

5. After receipt of the Secretary-General's report of 10 April, the Council decided that its President should convey to the Permanent Representative of Iraq to the United Nations that Iraq's compliance with the plans was imperative. The President did this on 22 April. No formal response was given to the President of the Council. However, in reply to a letter from the Executive Chairman of the Special Commission to the Iraqi Minister of State for Foreign Affairs concerning the lack of the required declarations and acknowledgements, the latter responded on 26 May (S/24002) setting out Iraq's position. After reiterating the statement of the Deputy Prime Minister of Iraq, Mr. Tariq Aziz, to the Security Council at its meeting on 11 March 1992, Iraq demanded:

"that agreement be reached between it, UNSCOM and IAEA, under the auspices of the Security Council, on practical guarantees to ensure that the measures and methods of ongoing monitoring will not be of such a nature as to infringe upon Iraq's sovereignty, threaten its internal security, lead to interference in its internal affairs or deny it the prospects of scientific, technological and industrial progress both in civilian fields and in military fields not prohibited under resolution 687 (1991)".

6. On 27 June 1992, Iraq formally submitted what it terms its "report on future compliance verification". This report has been examined by the Office of the Special Commission and by a group of international experts convened by the Office for the specific purpose of evaluating it.

7. This group of experts concluded that the declarations contained in the report were of themselves inadequate for the purposes of commencing effective ongoing monitoring and verification activities but did provide a base on which to build through further discussions with the Iraqi authorities. In addition to the conditions mentioned in paragraphs 3 and 4 above, the Special Commission has identified a long list of issues that will need to be clarified before ongoing monitoring and verification activities can commence, and will raise these with the Iraqi side during the next series of inspections and in meetings arranged specifically for this purpose.

8. Major general shortcomings in the report made by Iraq include:

(a) Failure to provide unconditional acknowledgement of its obligations under resolution 715 (1991) and the plans approved thereunder;

(b) Lack of clear indication of the basis on which the report was made. The letter from the Iraqi authorities which preceded the delivery of the report stated that:

"We would like to confirm hereby what the Vice-Premier, Mr. Tariq Aziz, established in his address to the Security Council on 11 March 1992. 'That Iraq is prepared to reach practical arrangements within the framework of the objective defined by the Security Council, and not exceed it to political or intelligence aims ... besides the possibility of reaching a reasonable formula to fulfil the aims of the current plans, guaranteeing at the same time Iraq's legitimate rights, sovereignty and security. The Council's understanding of the principles, basis and legitimate and logical requests we exposed, would naturally lead to a fair, just and objective application of the fundamental commitments required from Iraq in resolutions 707 (1991) and 715 (1991) which would lead to the Council's satisfaction.'

"On this basis, the competent Iraqi authorities will, in the coming few days, deliver two copies of the report on future compliance verification to ... the Special Commission in Baghdad."

This position is a repetition of that stated in the letter of 26 May 1992 (S/24002 - see para. 5 above). Taken with Iraq's strong criticism of the plan and resolution 715 (S/23606, para. 12), its oft-stated position of neither accepting nor rejecting them, and Iraq's failure to make the acknowledgement as in (a) above, suggests that Iraq made the declarations in accordance with its own understanding of what its obligations should be rather than in accordance with the plan adopted by the Security Council and contained in document S/22871/Rev.1;

(c) The absence of a declaration concerning the legislative and administrative measures taken by Iraq to give effect to the plan;

(d) The inadequacy of the declarations on civilian plants with dual capability.

9. A further difficulty relates to the inadequacy of a different set of declarations Iraq is obliged to provide - the full, final and complete disclosure of all aspects of its weapons programmes proscribed under section C of resolution 687 (1991), as required under resolution 707 (1991). In particular, complete information on Iraq's past production, suppliers and consumption of prohibited items and its past capacity to produce such items is necessary in order to plan effective inspection and import control regimes as required under the future ongoing monitoring and verification plans and Security Council resolution 715 (1991). The mechanism foreseen in paragraph 7 of that resolution can only be realistically designed when this information is available to the Sanctions Committee, the Special Commission and the International Atomic Energy Agency.

Conclusions

10. From the above, it is clear that the conditions for the initiation in full of the Special Commission's plan for ongoing monitoring and verification have not yet been met. Furthermore, there has been no movement in Iraq's underlying position on the plan and resolution 715 (1991) to suggest a change in the Commission's assessment that Iraq is seeking to ensure that implementation of the plan proceeds on the basis of its interpretation of its obligations, rather than on the basis of Security Council resolutions and the plan adopted by the Council.

11. As the Special Commission has previously pointed out, while its activities can be conveniently described as consisting of three stages - identification, destruction and monitoring - in actual fact these three stages overlap and merge one into the other. For example, the Commission is already engaged in revisiting or undertaking aerial surveillance of sites where proscribed activities were previously identified in order to ensure that those activities have not been resumed. This is essentially a monitoring function. The Commission is also actively seeking to identify civilian sites which are likely to require future monitoring. It is also seeking to supplement the information provided by Iraq (see para. 7 above) through vigorous questioning

and inspection, so that the initiation of full-scale monitoring will not be unduly delayed once Iraq makes the necessary political commitment to full compliance. Nevertheless, for the time being the Commission remains constrained from going beyond preparatory work into full-scale monitoring and verification until it is clear that Iraq will comply with such monitoring on the Council's, not Iraq's, terms. The Council's directives on this point are unequivocal and must be complied with both by the Commission and by Iraq.